

UNITED STATES DISTRICT COURT  
FOR THE  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

_____	)	
NIPPONKOA INSURANCE COMPANY,	)	
LTD.,	)	
	)	
<i>Plaintiff,</i>	)	
v.	)	CASE NO.: 4:08-cv-000976-CAS
	)	
TOWNE AIR FREIGHT, LLC,	)	
	)	
<i>Defendant.</i>	)	
_____	)	

**DEFENDANT’S MOTION TO STRIKE PORTIONS OF  
PLAINTIFF’S AFFIDAVITS IN OPPOSITION TO  
DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

Defendant Towne Air Freight, LLC (“Towne”) moves to strike portions of the affidavits and exhibits filed by Plaintiff NipponKoa Insurance Company, Ltd. (“NipponKoa”) in opposition to Towne’s Motion for Summary Judgment, as follows:

1. Declaration of Jacqueline M. James, ¶¶ 1, 8, 9, 12, 16, 18, 20, 21, 22, 23, 24, 25, 32, 33, 36 and 37 and the corresponding numbered Exhibits thereto.
2. Declaration of Thomas Dorst, ¶¶ 3, 4, 6, 7, 8 and 9.
3. Declaration of Akira Yamano, ¶ 11.
4. Declaration of Ryan Coffey, ¶¶ 14, 15 and 16.

As grounds for this motion, Towne states that the affidavit (declaration) materials cited above fail to comply with the requirements of Fed. R. Civ. P. 56(e) in that they are not statements of fact made on the affiants’ personal knowledge and fail to qualify for admissibility

as exceptions to the hearsay evidence rule under the Federal Rules of Evidence, all as more particularly set forth in Towne's accompanying memorandum in support of this motion.

WHEREFORE, Defendant Towne Air Freight, LLC prays that the Court strike the above-described portions of Plaintiff NipponKoa Insurance Company, Ltd's affidavits in opposition to Towne's Motion for Summary Judgment.

TOWNE AIR FREIGHT, LLC

By its attorneys,

July 29, 2009

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**CERTIFICATE OF SERVICE**

I hereby certify that this document, filed manually or through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants (see below) on this 29th day of July 2009.

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/s/ Wesley S. Chused  
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